

AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 11, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 348

Introduced by Senator Figueroa
(Principal coauthor: Senator Kuehl)
(Principal coauthor: Assembly Member Levine)
(Coauthor: Senator Escutia)
(Coauthors: Assembly Members Hancock and Lieber)

February 16, 2005

An act to add Chapter 6 (commencing with Section 10700) to Part 2 of Division 2 of Title 2 of the Government Code, relating to international trade.

LEGISLATIVE COUNSEL'S DIGEST

SB 348, as amended, Figueroa. International trade.

Existing constitutional provisions authorize the Legislature to provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control.

This bill would prohibit a state official, including the Governor, from binding the state, or giving consent to the federal government to bind the state, to provisions of a Proposed International Trade Agreement, including, the government procurement rules. ~~The bill would authorize the Governor to bind the state or give consent to the federal government to bind the state to provisions of a Proposed International Trade Agreement, including the government procurement rules, only upon the enactment of a statute explicitly~~

~~authorizing the Governor to bind the state or give consent to the federal government to bind the state to the provisions of that specific Proposed International Trade Agreement, unless a statute is enacted that explicitly authorizes a state official, including the Governor, to bind the state or to give consent to bind the state to that trade agreement.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6 (commencing with Section 10700) is
2 added to Part 2 of Division 2 of Title 2 of the Government Code,
3 to read:

4
5 CHAPTER 6. CONSENT TO BIND CALIFORNIA TO PROVISIONS
6 OF PROPOSED INTERNATIONAL TRADE AGREEMENTS
7

8 10700. The Legislature finds and declares all of the
9 following:

10 (a) International trade agreements are being negotiated by the
11 federal government without providing for review by state
12 officials concerned with the implications for state laws and state
13 lawmaking authority.

14 (b) The federal government has failed to consult with state
15 legislators when seeking the consent of states to be bound by
16 government procurement provisions of international trade
17 agreements.

18 (c) Government procurement and other provisions contained
19 in international trade agreements may affect the ability of the
20 state to enact common economic development and environmental
21 policies, such as buy local laws, recycled content laws, and
22 renewable energy purchasing requirements. Some measures to
23 achieve important state economic development or environmental
24 objectives could conflict with obligations in one or more
25 international trade agreements and could therefore be challenged
26 as potential barriers to trade.

27 (d) The Legislature and the Governor have historically worked
28 together to adopt and implement state procurement standards and
29 other public policies, and therefore, the decision to consent to the

1 coverage of California under procurement rules and other
2 provisions of international trade agreements should also be
3 considered by the Legislature and the Governor in the form of a
4 statutory change in law.

5 10701. (a) In this section, “Proposed International Trade
6 Agreement” means a trade agreement negotiated, or in the
7 process of being negotiated, between the federal government and
8 a foreign country.

9 (b) A state official, including the Governor, may not bind the
10 state, or give consent to the federal government to bind the state,
11 to provisions of a Proposed International Trade Agreement,
12 including but not limited to, the government procurement rules,
13 ~~except that the Governor may bind the state or give consent to~~
14 ~~the federal government to bind the state to provisions of a~~
15 ~~Proposed International Trade Agreement, including but not~~
16 ~~limited to, the government procurement rules, upon the~~
17 ~~enactment of a statute explicitly authorizing the Governor to bind~~
18 ~~the state or give consent to the federal government to bind the~~
19 ~~state to the provisions of that specific Proposed International~~
20 ~~Trade Agreement.~~ *unless a statute is enacted that explicitly*
21 *authorizes a state official, including the Governor, to bind the*
22 *state or give consent to bind the state to the provisions of that*
23 *trade agreement.*